

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JESSICA C. McGLOTHIN

PLAINTIFF

v.

CAUSE NO.1:17cv83-LG-RHW

**ANDREW W. MASON, CITY
OF BILOXI, BILOXI FIRE
DEPARTMENT, and STATE
FARM MUTUAL
INSURANCE COMPANY**

DEFENDANTS

**ORDER DISMISSING PLAINTIFF'S CLAIMS AGAINST ANDREW
W. MASON, CITY OF BILOXI, AND BILOXI FIRE DEPARTMENT**

THIS MATTER IS BEFORE THE COURT pursuant to the Order to Show Cause [15] entered by United States Magistrate Judge Robert H. Walker. The plaintiff Jessica C. McGlothin did not respond to the Order to Show Cause. After reviewing the record in this matter and the applicable law, the Court finds that the plaintiff's claims against Andrew W. Mason, City of Biloxi, and Biloxi Fire Department should be dismissed due to the plaintiff's failure to demonstrate that she timely served process on these defendants.

DISCUSSION

The plaintiff filed this lawsuit in the Circuit Court of Harrison County, Mississippi, as a result of an automobile accident in which Mason's vehicle rear-ended the plaintiff's vehicle. The plaintiff claims that Mason was acting in the course and scope of his employment with the Biloxi Fire Department or the City of Biloxi at the time of the accident. She also sued her insurer, State Farm, seeking uninsured motorist coverage because the City of Biloxi has claimed governmental

immunity. State Farm removed the case to this Court alleging that diversity of citizenship exists because Mason, the City of Biloxi, and the Biloxi Fire Department were fraudulently misjoined as defendants.

On October 4, 2017, Judge Walker entered an Order [15] requiring the plaintiff to show cause why her claims against Mason, the City of Biloxi, and the Biloxi Fire Department should not be dismissed for failure to timely serve process. The plaintiff did not respond to the Order, and the time for filing a response has expired. As a result, the plaintiff has not demonstrated that she timely served Mason, the City of Biloxi, and the Biloxi Fire Department with process. The plaintiff's claims against Mason, the City of Biloxi, and the Biloxi Fire Department are hereby dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m).

IT IS, THEREFORE, ORDERED AND ADJUDGED that the plaintiff's claims against Andrew W. Mason, City of Biloxi, and Biloxi Fire Department are hereby **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED AND ADJUDGED this the 31st day of October, 2017.

s/ *Louis Guirola, Jr.*

Louis Guirola, Jr.
Chief United States District Judge